

## **PERSONNEL**

### **MERIT SYSTEM BOARD**

#### **Leaves, Hours of Work and Employee Development**

##### **Donated Leave**

##### **Adopted Amendment: N.J.A.C. 4A:6-1.22**

Proposed: October 18, 2004 at 36 N.J.R. 4567(a)

Adopted: January 12, 2005 by the Merit System Board, Rolando Torres, Jr., Acting Commissioner,  
Department of Personnel.

Filed: , 2005 d. , without change.

Authority: N.J.S.A. 11A:2-6(d) and 11A:6-1.

Effective Date: , 2005.

Expiration Date: June 9, 2008.

Summary of Hearing Officer Recommendations and Agency Responses:

A public hearing on the proposed amendment was held on November 18, 2004 in Trenton, New Jersey. Elizabeth Rosenthal served as hearing officer. No comments were received on the proposed amendment at that time, and no recommendations were made by the hearing officer. No written comments were received. The record of the public hearing may be reviewed by contacting Henry Maurer, Director, Division of Merit System Practices and Labor Relations, Department of Personnel, P.O. Box 312, Trenton, New Jersey 08625-0312.

Federal Standards Statement

A Federal standards analysis is not necessary for the adopted amendment to N.J.A.C. 4A:6-1.22. The adopted amendment concerns a donated leave program for New Jersey's merit system employees and is governed solely by State law.

Full text of the adopted amendment may be found in the New Jersey Administrative Code at N.J.A.C. 4A:6-1.22.

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4A:6-1.22 Donated leave program

(a) A State employee shall be eligible to receive donated sick or vacation leave if the employee:

1. Has completed at least one year of continuous State service;

2. Has exhausted all accrued sick, vacation and administrative leave, all sick leave injury benefits, if any, and all compensatory time off;

3. Has not, in the two-year period immediately preceding the employee's need for donated leave, been disciplined for chronic or excessive absenteeism, chronic or excessive lateness or abuse of leave; and

4. Either:

i. Suffers from a catastrophic health condition or injury;

ii. Is needed to provide care to a member of the employee's immediate family who is suffering from a catastrophic health condition or injury; or

iii. Requires absence from work due to the donation of an organ (which shall include, for example, the donation of bone marrow).

(b) For purposes of this section, a "catastrophic health condition or injury" shall be defined as follows:

1. With respect to an employee, a "catastrophic health condition or injury" is [a] either:

i. A life-threatening condition or combination of conditions; or [a]

ii. A period of disability required by his or her mental or physical health or the health of the employee's fetus [and requiring] which requires the care of a physician who provides a medical verification of the need for the employee's absence from work for 60 or more work days.

2. With respect to an employee's immediate family member, a "catastrophic health condition or injury" is [a] either:

i. A life-threatening condition or combination of conditions; or [a]

ii. A period of disability required by his or her mental or physical health [and requiring] which requires the care of a physician who provides a medical verification of the need for the family member's care by the employee for 60 or more work days.

(c) A State employee may request that the appointing authority approve his or her participation in the program, as a leave recipient or leave donor. The employee's supervisor may make such a request on behalf of the employee for his or her participation in the program as a leave recipient.

1. The employee or supervisor requesting the employee's acceptance as a leave recipient shall submit to the appointing authority medical verification from a physician or other licensed health care provider concerning the nature and anticipated duration of the disability resulting from either the catastrophic health condition or injury, or the donation of an organ, as the case may be.

2. When the appointing authority has approved an employee as a leave recipient, the appointing authority shall, with the employee's consent, post or circulate the employee's name along with those of other eligible employees in a conspicuous manner to encourage the donation of leave time, and shall provide notice to all negotiations representatives in that appointing authority.

i. If the employee is unable to consent to this posting or circulation, the employee's family may consent on his or her behalf.

(d) In State service, a leave recipient must receive at least five sick days or vacation days or a combination thereof from one or more leave donors to participate in the donated leave program. A leave donor shall donate only whole sick days or whole vacation days and may not donate more than 10 such days to any one recipient.

1. A leave recipient shall receive no more than 180 sick days or vacation days, and shall not

receive any such days on a retroactive basis.

2. A leave donor shall have remaining at least 20 days of accrued sick leave if donating sick leave and at least 12 days of accrued vacation leave if donating vacation leave.

3. A leave donor shall not revoke the leave donation.

4. If a leave donor is not in the same department or autonomous agency as the leave recipient, appropriate arrangements shall be made between the affected appointing authorities to verify donor eligibility and adjust leave records. However, the posting requirement set forth in (c)2 above is limited to the recipient's appointing authority.

(e) While using donated leave time in State service, the leave recipient shall accrue sick leave and vacation leave and be entitled to retain such leave upon his or her return to work.

1. Any unused, donated leave shall be returned to the leave donors on a prorated basis upon the leave recipient's return to work, except that if the proration of leave days results in less than one day per donor to be returned, that leave time shall not be returned.

2. Upon retirement, the leave recipient shall not be granted supplemental compensation on retirement for any unused sick days which he or she had received through the leave donation program.

(f) A State employee shall be prohibited from threatening or coercing or attempting to threaten or coerce another employee for the purpose of interfering with rights involving donating, receiving or using donated leave time. Such prohibited acts shall include, but not be limited to, promising to confer or conferring a benefit such as an appointment or promotion or making a threat to engage in, or engaging in, an act of retaliation against an employee.

(g) In local service, an appointing authority may establish a donated leave program which

shall be consistent with the provisions of (a) through (f) above, with approval of the Commissioner.

1. The appointing authority shall submit to the Commissioner a donated leave program proposal no later than 30 days before the planned implementation of the program. The proposal shall include a summary of consultations with affected negotiations representatives concerning the program and name the donated leave program administrator for the appointing authority.

2. The appointing authority shall not implement a donated leave program unless the program has been approved by the Commissioner.

3. The appointing authority shall retain all records concerning implementation of an approved donated leave program subject to Department of Personnel audit.

4. The appointing authority may suspend or terminate the donated leave program at any time upon 30 days written notice of such suspension or termination to the Commissioner, all affected employees and labor negotiations representatives.